

Senate File 435

S-3123

1 Amend Senate File 435 as follows:

2 1. By striking page 2, line 23, through page 3,
3 line 26, and inserting:

4 <Sec. _____. Section 85.33, subsection 3, Code 2017,
5 is amended to read as follows:

6 3. a. If an employee is temporarily, partially
7 disabled and the employer for whom the employee
8 was working at the time of injury offers to the
9 employee suitable work consistent with the employee's
10 disability, the employee shall accept the suitable
11 work, and be compensated with temporary partial
12 benefits. If the employee refuses to accept the
13 suitable work with the same employer, the employee
14 shall not be compensated with temporary partial,
15 temporary total, or healing period benefits during
16 the period of the refusal. If suitable work is not
17 offered by the employer for whom the employee was
18 working at the time of the injury and the employee who
19 is temporarily, partially disabled elects to perform
20 work with a different employer, the employee shall
21 be compensated with temporary partial benefits. For
22 the purposes of this subsection, work offered to an
23 employee shall be considered suitable work if the work
24 offered meets all of the following requirements:

25 (1) The work offered is reasonably appropriate for
26 the employee's education, training, and vocational
27 experience.

28 (2) The work offered is consistent with the
29 employee's medical restrictions.

30 (3) The work offered does not require the employee
31 to work a substantially different schedule which
32 unreasonably interferes with the employee's customary
33 activities in caring for a dependent. For the purposes
34 of this subsection, "dependent" means a dependent as
35 described in section 85.42 or 85.44.

1 (4) The work is not offered for the purpose of
2 punishing or harassing the employee.

3 (5) The work offered does not require the employee
4 to accept a permanent reassignment to a different job
5 subsequent to the period of temporary disability,
6 provided that once the period of temporary disability
7 ends, this subsection shall not be construed to limit
8 the employer from reassigning the employee to a job
9 consistent with the employee's permanent medical
10 restrictions, if any.

11 b. For the purposes of paragraph "c", "traveling
12 employee" means an employee whose regular job duties
13 regularly require the employee to be away from the
14 employee's residence for extended periods of time.

15 c. For the purposes of this subsection, work
16 offered to a traveling employee shall be considered
17 suitable work if the work offered meets the
18 requirements contained in paragraph "a", subject to the
19 following additional requirements:

20 (1) The geographic location of the work offered
21 to the traveling employee shall be considered in
22 making a determination of whether the work offered is
23 suitable work only if the work offered does any of the
24 following:

25 (a) Requires a commute or other travel beyond the
26 physical capacity of the employee.

27 (b) Requires the traveling employee to spend
28 substantially more time away from the employee's
29 residence than the employee's regular job duties.

30 (c) Interferes with the medical care of the
31 traveling employee for the work-related injury,
32 including but not limited to forcing a change in a
33 health service provider or a delay in medical care or
34 treatment.

35 (2) If an employer offers suitable work to a

1 traveling employee that requires the employee to
2 spend substantially more time away from the employee's
3 residence than the employee's regular job duties, the
4 employer shall notify the employee in writing of the
5 following:

6 (a) The nature of the job duties and physical
7 requirements of the work offered.

8 (b) The geographic location of the work offered, if
9 the location of the work offered will be substantially
10 different than the location of the traveling employee's
11 regular job duties.

12 (c) The possible suspension of temporary partial,
13 temporary total, or healing period benefits if the
14 traveling employee refuses the suitable work offered.

15 (d) The traveling employee's right to file a claim
16 with the workers' compensation commissioner.

17 (3) The employer shall deliver written notice of
18 the suitable work offered to the traveling employee, by
19 mail, or by personal or electronic delivery.

20 (4) Within seven days after the employer mails
21 written notice to the traveling employee of the
22 suitable work offered, or within three days after the
23 employer personally or electronically delivers written
24 notice to the traveling employee of the suitable work
25 offered, whichever is earlier, the employee shall
26 either accept the offer of suitable work or refuse the
27 offer of suitable work, in written or electronic form,
28 stating the basis for the employee's refusal of the
29 suitable work offered, if applicable.

30 (5) If at any time the employer substantially
31 alters the job duties, physical requirements, or
32 location of the suitable work, the employer shall
33 provide the traveling employee with written notice of
34 the proposed alterations and the employee shall accept
35 or refuse the alterations to the suitable work, in

1 written or electronic form, within three days after
2 the notice is delivered, stating the basis for the
3 employee's refusal of the alterations, if applicable.

4 (6) If the traveling employee believes that the
5 suitable work offered is not suitable under this
6 subsection after accepting and engaging in the work,
7 the employee may refuse the work as unsuitable.

8 The employee's right to refuse the work offered as
9 unsuitable is not affected by the employee's initial
10 acceptance of and engagement in the work.

11 (7) If the employer makes an offer of suitable
12 work pursuant to this subsection that requires a
13 traveling employee to commute or travel further than
14 the location of the employee's regular job duties, the
15 employer shall provide the employee with reasonable
16 transportation, overnight lodging, and meals, or
17 with prompt reimbursement for such reasonable travel
18 expenses.

19 d. This subsection shall not be construed to create
20 a new legal claim or cause of action or to extinguish
21 or modify any existing legal claim or cause of action.>

22 2. By renumbering as necessary.

NATE BOULTON